

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00048
Petitioners: Harry T. & Noel F. Adamek
Respondent: Department of Local Government Finance
Parcel #: 009-12-14-0142-0033
Assessment Year: 2002

The Indiana Board of Tax Review (Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$132,400 and notified Petitioners of that determination on March 26, 2004.
2. The Petitioners filed a Form 139L on April 12, 2004.
3. The Board issued a notice of hearing to the parties dated July 20, 2004.
4. A hearing was held on August 24, 2004, Crown Point, Indiana before Special Master S. Sue Mayes.

Facts

5. The subject property is a single-family residence located at 629 Cottonwood Drive, Dyer in St. John Township, Lake County.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed value of subject property as determined by the DLGF:
Land \$38,200 Improvements \$94,200 Total \$132,400.
8. Assessed value requested by Petitioners:
Land \$31,800 Improvements \$94,200 Total \$126,000.
9. Persons sworn as witnesses at the hearing:
For Petitioners: Harry T. Adamek and Noel F. Adamek, owners,
For Respondent: David M. Depp, Senior Appraiser, Cole-Layer-Trumble (CLT).

Issue

10. Summary of Petitioners' contentions in support of alleged error in assessment:
Petitioners contend that their land value is overstated due to the assessing officials using erroneous measurements for their lot. Petitioners' land value is greater than the land values of neighbors who have larger lots. *Harry T. Adamek testimony*. The land was originally assessed as having 75 feet of frontage and effective depth of 150 feet for a land value of \$31,800. *Petitioners' Exhibit 2*. After attending an informal hearing, Petitioners were notified that the land value was \$38,180 for a lot with 86 feet of effective frontage and 173 feet effective depth. *Petitioners' Exhibit 4*. Plat survey map shows the correct measurements. The assessing guidelines explain how the pie-shaped lot should be assessed. Petitioners request that the land value be changed to the original value of \$31,800. *Petitioner's Exhibits 1 and 5. Harry T. Adamek testimony*.

11. Summary of Respondent's contentions in support of assessment:
Respondent agreed that one of the land measurements taken from a county plat map was incorrect. *Depp testimony*. One side of the property that measured 137.7 feet on the survey was listed incorrectly at 197.7 feet on the county plat map. *Depp testimony; Respondent Exhibit 5*. The change from 75 feet frontage to 86 feet effective frontage, however, was correct. Using the correct measurements of 86 feet effective frontage and 144 feet of effective depth, the land value should be \$35,800. *Depp testimony*.

Record

12. The official record for this matter is made up of the following:
 - a. The Petition.
 - b. The tape recording of the hearing labeled Lake Co.–146.
 - c. Exhibits:
 - Petitioners Exhibit 1: Plat survey for Lot 33, subject property.
 - Petitioners Exhibit 2: Property record card (PRC) and Form 11 for parcel 009-12-14-0142-0033 and Form 139L.
 - Petitioners Exhibit 3: Notice of Final Assessment dated March 26, 2004.
 - Petitioners Exhibit 4: PRC for parcel 009-12-14-0142-0033.
 - Petitioners Exhibit 5: REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002—VERSION A, Chapter 2, pages 45, 46, 47 and 48.
 - Petitioners Exhibit 6: Printouts from the DLGF website and PRCs for nine parcels identified as comparables.
 - Petitioners Exhibit 7: Pheasant Hills Addition plat map.
 - Respondent Exhibit 1: Form 139L.
 - Respondent Exhibit 2: PRC for parcel 009-12-14-0142-0033.
 - Respondent Exhibit 3: Photograph for parcel 009-12-14-0142-0033.
 - Respondent Exhibit 4: Comparables worksheet, PRCs and photographs.
 - Respondent Exhibit 5: Pheasant Hills Addition plat map.
 - Respondent Exhibit 6: Neighbors' PRCs.
 - Respondent Exhibit 7: Comparables PRC, parcel 009-12-14-0142-0029.

- a. These Findings and Conclusions.

Analysis

2. The most applicable governing cases are:
 - a. A petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b. Once a petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut that evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). Then assessing official must offer evidence that impeaches or rebuts a petitioner's evidence. *Meridian Towers*, 805 N.E.2d at 479.
3. Petitioners provided sufficient evidence to support their contentions. This conclusion was arrived at because:
 - a. A comparison of the plat map used by CLT and the survey map provided by Petitioners shows that an erroneous depth measurement was used in valuing Petitioners' land. *Depp testimony; Respondent Exhibit 5 and Petitioners Exhibit 1.*
 - b. The parties agreed that Petitioners' land value should be assessed using the correct measurements of 86 feet of effective frontage and 144 feet of depth. With those measurements, the land value would be \$35,800. *Adamek testimony. Depp testimony.*

Conclusion

4. Petitioners and Respondent agreed on the corrected land measurements. With that agreement, \$35,800 is the fair and accurate land value. The Board accepts the change by agreement of the parties. The assessment of the land is changed to \$35,800 and the assessment of the improvements is not changed. Thus, the corrected total assessment for this parcel is \$130,000.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.